

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 213 – HB 679

February 4, 2013

SUMMARY OF BILL: Makes the hotel occupancy tax and the metropolitan government tourist accommodation tax a levy on the consideration charged to the public, rather than a levy on the consideration charged by the operator. Specifies collection and remittance responsibilities for intermediaries and operators. Declares that to the extent there is a conflict between this act and any private act, resolution, or ordinance which imposes an occupancy tax, this act shall govern, and authorizes local governments to modify the provisions of the latter such that they are consistent with the provisions of this bill.

ESTIMATED FISCAL IMPACT:

Increase Local Revenue – \$1,556,400

Assumptions:

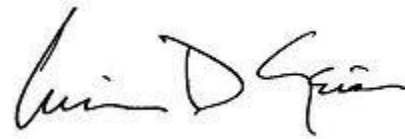
- Under current law, the hotel occupancy tax and the metropolitan government tourist accommodation tax are levied on the price charged by the operator. In the instances where rooms are booked through an online travel agent, this represents the price the hotel charges the online travel agent, which, under the merchant business model, is generally lower than the price the online travel agent ultimately charges the customer booking the room.
- This bill levies the taxes on the price charged to the public. Given the price charged to the public is generally higher than the price the hotel has charged the online travel agent, tax revenues are expected to increase.
- According to the Department of Health, there were approximately 129,076 hotel rooms in Tennessee as of November 2012.
- According to PricewaterhouseCoopers LLP, the national hotel occupancy rate for 2012 was estimated to be 61.4 percent. According to the Nashville Convention & Visitors Bureau, Davidson County hotel occupancy rate in 2011 was 64.0 percent. Estimate assumes the statewide hotel occupancy rate is 62.0 percent.
- The annual number of room nights booked in Tennessee is estimated to be 29,209,899 (129,076 rooms x 365 nights x 62.0% occupancy rate).
- Based on information provided by TravelClick, Inc., approximately 11.4 percent of all hotel room bookings in 2011 were made by online travel agents.
- The average price differential between the price charged by the operator and the price charged to the public is estimated to be \$15 per room per night.

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- Pursuant to Tenn. Code Ann. § 67-4-1402, each municipality in this state is authorized to levy by ordinance the hotel occupancy tax in an amount not to exceed five percent of the consideration charged by the operator.
- Further, Tenn. Code Ann. § 7-4-102 authorizes metropolitan governments to impose a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed three percent of the consideration charged by the operator. Additional one percent tax increments are authorized if certain conditions are met as outlined in this section.
- Based on information provided by the Municipal Technical Advisory Services, the hotel occupancy tax is levied in 74 of 95 counties (or 77.9 percent of all counties). The percentage of counties levying the tax is representative of the percentage of municipalities levying the tax.
- The average hotel occupancy tax rate is estimated to be 4.0 percent.
- The recurring increase in tax revenue to local governments is estimated to be \$1,556,409 (29,209,899 room nights x 11.4% booked by online travel agents x \$15 price differential x 77.9% of all municipalities x 4.0% average tax).
- State and local sales tax is assumed to be computed on the price charged to the public prior to any levy of hotel occupancy tax or the metropolitan government tourist accommodation tax; as a result, any change in state and local sales tax revenue is considered not significant.
- There will not be a significant number of prosecutions for local governments to experience any significant increase in revenue or expenditures as a result of willful refusal by operators or intermediaries to collect or remit the tax or transients to pay the tax.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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